IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

THURSDAY, THE 1ST MARCH 2007 / 10TH PHALGUNA 1928

Crl.MC.No. 545 of 2007()

Cr.No.346/05 of J.F.C.M, PARAVOOR, KOLLAM

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PETITIONER: ACCUSED

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1. K.VASANTHAKUMARI, AGED 52,
   W/OF LATE SASIDHARAN ANTHRITHI VILAYIL,
   KOOTHARI, ERAMMIDDECHIRAYIL, MEENAD,
   CHATHANNOOR.

2. SREE KUMAR, S/O LATE SASIDHARAN,
   ANTHRITHI VILAYIL KOOTHARI, ERAMMIDDECHIRAYIL,
   MEENAD, CHATHANNOOR.

BY ADV. SRI.A.N.RAJAN BABU
SMT.K.SUNITHA VINOD
SRI.P.GOPALAKRISHNAN (MVA)

RESPONDENTS:

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1. STATE OF KERALA, REPRESENTED BY
   PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
   ERNAKULAM.

2. SUB INSPECTOR OF POLICE,
   CHATHANNOOR.

3. SRI LALU, SON OF VISWABHARAN,
   THETTETH HOUSE, NEAR BHOOTHANATH TEMPLE,
   THAZHATH, MEENAD, CHATHANNOOR.

BY PUBLIC PROSECUTOR SRI.S.U.NAZER

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 01/03/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

Crl.M.C.No.545 of 2007

Dated this the 1st day of March, 2007

ORDER

The petitioners face indictment in a prosecution under Section 306 I.P.C. The crux of the allegations is that the petitioners had abetted the commission of suicide by one Surendran. Cognizance has been taken on the basis of a final report submitted by the police after due investigation. Final report has been filed. Committal proceedings has been registered. The petitioners have rushed to this Court with a a prayer that the proceedings against them may be quashed by invoking the powers under Section 482 Cr.P.C. The learned counsel for the petitioners submits that the petitioners are absolutely innocent. It is true that the said Surendran-the deceased in this case, claimed that amounts were due to him from Sasi, the predecessor in interest of the petitioners. The petitioners were willing to pay the actual amount due. But insistence was made on payment of fanciful amounts. The said Surendran had gone to the house of the petitioners in their absence and had committed suicide there. There is no element of abetment of suicide on the part of the petitioners.

2. I must alertly remind myself of the nature, quality and contours of the jurisdiction of this Court in proceedings under Section 482 Cr.P.C. Even the fact that an accused may be entitled for

discharge or acquittal will not ip so facto persuade this Court to invoke the powers under Section 482 Cr.P.C. The Code makes provisions for persons to claim discharge/acquittal by resort to the provisions of the Code. In an exceptional case, where this Court is satisfied that leaving the parties to seek such ordinary remedy would entail failure/miscarriage of justice, the reservoir of powers under Section 482 Cr.P.C will be available to the Court to intervene and prematurely terminate the proceedings. But certainly such invocation of powers cannot be as a matter of course. Even the fact that the accused may succeed probably in claiming acquittal or discharge cannot persuade the Court to invoke such powers as a matter of course. Compelling reasons must be shown to exist to deviate from the ordinary procedure.

3. I am unable to see any such circumstances in this case. The better convenience of the parties cannot be a sufficient ground to invoke the powers under Section 482 Cr.P.C. I am of opinion that the petitioners must resort to the ordinary and regular procedure to appear before the Courts below and claim discharge/acquittal at the appropriate stage. Needles to say, the petitioners' claim for discharge under Section 227/228 Cr.P.C will have to be considered by the appropriate Court.

4. The learned counsel for the petitioners submits that if unnecessary insistence were made on the personal presence of the

petitioners on all dates of posting, that would cause great hardship and prejudice to the petitioners. I have no reason to assume that any Court would unnecessarily insist on the personal presence of the accused, unless such presence be essential for the proper further progress of the case. The petitioners can appear through pleader or claim exemption on any date when their personal presence is not necessary. No specific or special directions need be given in the matter.

5. The learned counsel for the petitioners further submits that the 2nd petitioner is now abroad and reasonable time may be granted to the 2nd petitioner to appear before the learned Magistrate. The 2nd petitioner can appear through counsel and make such request. The learned Magistrate must pass appropriate orders on merits on such prayer also.

6. This Crl.M.C is, in these circumstances, dismissed, but with the above specific observations.

(R.BASANT, JUDGE)

rtr/-